

**REPORT ON EXAMINATION**  
**OF THE**  
**GEMINI INSURANCE COMPANY**  
**AS OF**  
**DECEMBER 31, 2006**

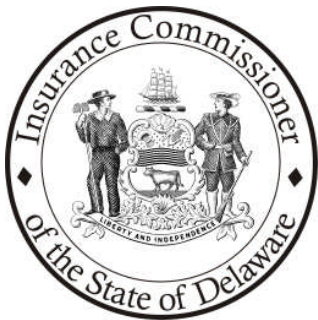
I, Matthew Denn, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of DECEMBER 31, 2006 of the

**GEMINI INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.

ATTEST BY: Antoinette Handy

DATE: 27 JUNE 2008



In Witness Whereof, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 27TH DAY OF JUNE 2008.

Matthew Denn  
Insurance Commissioner

**REPORT ON EXAMINATION**  
**OF THE**  
**GEMINI INSURANCE COMPANY**  
**AS OF**  
**December 31, 2006**

The above captioned Report was completed by examiners of the Delaware Insurance Department.

Consideration has duly been given to the comments, conclusions, and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted, and filed as an official record of this Department.

A handwritten signature in black ink, appearing to read "Matthew Denn", written in a cursive style.

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MATTHEW DENN  
INSURANCE COMMISSIONER

DATED this 27TH Day of JUNE 2008.

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## **SALUTATION**

June 27, 2008

Honorable Alfred Gross  
Chairman, Financial Condition (E)  
Committee, NAIC  
State Corporation Commission  
Bureau of Insurance  
PO Box 1157  
Richmond, VA 23218

Honorable Matthew P. Denn  
Commissioner of Insurance  
Delaware Department of Insurance  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Honorable Thomas E. Hampton  
Secretary, Northeastern Zone (I) NAIC  
Department of Insurance, Securities and Banking  
Government of the District of Columbia  
810 First Street N.E., Suite 701  
Washington, DC 20002

Honorable Julie Mix McPeak  
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Office of Insurance  
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Honorable Merle D. Scheiber  
Secretary, Midwestern Zone (III), NAIC  
South Dakota Division of Insurance  
Department of Revenue and Regulation  
445 East Capitol Avenue  
Pierre, SD 57501-3185

Honorable Kent Michie  
Secretary, Western Zone (IV) NAIC  
Utah Department of Insurance  
3110 State Office Building  
Salt Lake City, Utah 84114-1201

Commissioners:

In compliance with instructions and pursuant to statutory provisions contained in Certificate of Authority No. 06-004, dated January 26, 2006, an examination has been made of the affairs, financial condition and management of the

### **GEMINI INSURANCE COMPANY**

hereinafter referred to as "Company" or "Gemini" and incorporated under the laws of the State of Delaware as a stock company with its home office located at 1209 Orange Street, Wilmington, Delaware, 19801. The examination was conducted at the main administrative office of the Company, located at 475 Steamboat Road, Greenwich, CT 06830.

The report of such examination is submitted herewith.

## **SCOPE OF EXAMINATION**

The last examination was conducted as of December 31, 2003. This examination covers the period since that date through December 31, 2006, and consisted of a general review of the Company's business policies and practices, management, any corporate matters incident thereto, a verification and evaluation of assets and determination of liabilities. Transactions subsequent to the latter date were reviewed where deemed necessary.

The format of this report is designed to explain the procedures employed on examination and the text will explain changes wherever made. If necessary, comments and recommendations have been made in those areas in need of correction or improvement. In such cases, these matters were thoroughly discussed with responsible officials during the course of the examination.

The general procedures of the examination followed the rules established by the Committee on Financial Condition Examiners Handbook of the National Association of Insurance Commissioners ("NAIC") and generally accepted statutory insurance examination standards consistent with the Insurance Laws and Regulations of the State of Delaware. In accordance with the aforementioned Handbook, the consulting firm of INS Services, Inc. performed an information systems review.

In addition to items hereinafter incorporated as a part of the written report, the following areas were reviewed and made part of the files of this examination:

- Corporate Records
- Fidelity Bonds and Other Insurance
- Statutory Deposits
- Employees' Welfare
- All Asset and Liability Items not Mentioned

In addition to this examination of the Company, concurrent examinations were performed on the Company's parent and the following affiliates, all Delaware domestic companies:

Berkley Insurance Company (parent)  
StarNet Insurance Company  
Midwest Employers Casualty Company

Examination reports for the above mentioned companies were filed separately.

### **HISTORY**

The Company was incorporated on November 9, 1995, as the Gemini Reinsurance Company. Effective June 5, 1997, the Company amended the original Certificate of Incorporation by changing its name to Gemini Insurance Company. Gemini attained an admitted carrier status in Delaware on September 30, 1997. The Company is a wholly owned subsidiary of Berkley Insurance Company (Berkley) a Delaware domiciled insurance company. Berkley is a wholly owned subsidiary of Signet Star Holdings, Inc., (Holdings) a Delaware holding company. Holdings is a wholly owned subsidiary of W.R. Berkley Corporation (WRBC), a Delaware insurance holding company.

### **CAPITALIZATION**

#### **Capital Stock**

The Certificate of Incorporation provides that the Company is authorized to issue 500,000 shares of common capital stock having a par value of \$10 per share, of which 430,000 shares are issued and outstanding, and 100,000 shares of preferred stock having a par value of \$10 per share of which no shares are issued and outstanding. All shares of stock are owned by Berkley Insurance Company.

### Gross Paid In and Contributed Surplus

The Company received a capital contribution from its immediate parent company, Berkley Insurance Company, on February 21, 2006, in the amount of \$24,000,000, that increased its gross paid in and contributed surplus from \$18,000,000 to \$42,000,000.

### Dividends to Stockholder

There were no stockholder dividends paid during the period of January 1, 2004 to December 31, 2006.

The following is a reconciliation of capital and surplus for the period under examination:

	<u>2004</u>	<u>2005</u>	<u>2006</u>
Surplus as regards policyholders, December 31, prior year	<u>\$29,751,617</u>	<u>\$27,629,979</u>	<u>\$26,486,954</u>
Net Income	\$1,018,091	\$1,132,926	\$2,001,728
Change in net unrealized capital gains (losses)	(2,311)	(27,390)	19,464
Change in net deferred income tax	(1,190)	2,116,933	(870,687)
Change in nonadmitted assets	(3,136,228)	(4,329,754)	3,521,204
Change in provision for reinsurance	0	(35,740)	(14,456)
Surplus adjustments: Paid in	0	0	24,000,000
Change in surplus as regards policyholders, current year	<u>\$(2,121,638)</u>	<u>\$(1,143,025)</u>	<u>\$28,657,253</u>
Surplus as regards policyholders, current year	<u>\$27,629,979</u>	<u>\$26,486,954</u>	<u>\$55,144,207</u>

## **MANAGEMENT AND CONTROL**

### Board of Directors

The amended bylaws state that the affairs of the Company shall be managed by its Board of Directors consisting initially of seven directors, and thereafter consisting of such number as may be fixed from time to time by resolution of the Board of Directors. Directors are elected at the annual meeting of the stockholders and each director serves for the term of one year until the next annual election and until their successors are elected and qualified. Interim vacancies may be filled by a majority of the remaining directors through less than a quorum provided; however,



the stockholders removing any director may at the same meeting fill the vacancy caused by such removal, and provided further, that if the directors fail to fill any such vacancy, the stockholders may at any special meeting fill such vacancy. A majority of the Board of Directors at any time in office constitutes a quorum.

The Board of Directors holds an annual meeting for the purpose of organization and the transaction of any business immediately after the annual meeting of the stockholders, provided a quorum is present. Special meetings of the Board of Directors may be called by the Chairman of the Board or by the President.

Members of the Board of Directors, duly elected in accordance with the Company's bylaws and serving as of December 31, 2006 were as follows:

**Director**

**Primary Business Affiliation**

Eugene George Ballard	Chief Financial Officer and Treasurer W.R. Berkley Corporation
William Robert Berkley	Chairman and Chief Executive Officer W.R. Berkley Corporation
William Robert Berkley Jr.	Executive Vice President W.R. Berkley Corporation
Craig Nicholas Johnson	President and Chief Executive Officer Signet Star Re, LLC
Carol Josephine LaPunzina	General Counsel and Secretary Berkley Insurance Company
Ira Seth Lederman	General Counsel and Secretary W.R. Berkley Corporation
C. Fred Madsen	Senior Vice President W.R. Berkley Corporation

**Committees of the Board of Directors**

The following were members of the Business Ethics Committee that served as of December 31, 2006:

<u><b>Name</b></u>	<u><b>Title</b></u>
Larry Aaron Hansen	Chief Financial Officer
Carol Josephine LaPunzina	General Counsel and Secretary

#### Officers

The bylaws provide that the officers of the Company shall be a President, one or more Vice-Presidents, a Secretary, one or more Assistant Secretaries, a Treasurer, and one or more Assistant Treasurers, and the Board of Directors may appoint such other officers.

The Company's principal officers and their respective titles as of December 31, 2006 were as follows:

<u><b>Name</b></u>	<u><b>Title</b></u>
William Robert Berkley	President
Larry Aaron Hansen	Chief Financial Officer
Carol Josephine LaPunzina	Secretary
John Stanley Diem	Executive Vice President
Craig Nicholas Johnson	Executive Vice President
Jason Richard Niemala	Executive Vice President
Joseph Lee Mathews	Senior Vice President
Richard Paul Shemitis	Executive Vice President

#### Conflict of Interest Policy

The ultimate parent company, W.R. Berkley Corporation, maintains a formal written Statement of Business Ethics for conflict of interest and business conduct procedures for its subsidiaries that require its personnel to submit certificate of compliance forms on at least an annual basis.

The Company implemented its procedures for the year 2005; however, the execution of certificate of compliance forms was not completed by five of its directors or officers in 2006.

Therefore,

**It is recommended that the Company comply with its Statement of Business Ethics procedures by verifying that its officers and or directors submit certificate of compliance or conflict of interest forms on at least an annual basis.**

Timeliness and/or Lack of Board of Directors' Approvals of Transactions

During the period of January 1, 2004 to December 31, 2006, pertinent intercompany transactions and agreements were either not pre-approved, not authorized in a timely manner, or were not approved at all by the Board of Directors in seven instances.

Therefore,

**It is recommended that the Company's Board of Directors approve all inter-company agreements.**

**HOLDING COMPANY SYSTEM AND AFFILIATED TRANSACTIONS**

The Company is a member of an insurance holding company system and is a wholly owned subsidiary of Berkley Insurance Company, a Delaware domiciled reinsurance company, that in turn is wholly owned by Signet Star Holdings, Inc., a Delaware holding company that is wholly owned by the ultimate parent, W.R. Berkley Corporation (WRBC), domiciled in the State of Delaware.

WRBC, founded in 1967, is an insurance holding company that is among the largest commercial lines writers in the United States and operates in five segments of the property and casualty insurance business that include specialty insurance, regional property and casualty insurance, alternative markets, reinsurance and international. WRBC has offices throughout the United States, as well as in Europe, South America and the Philippines.

As stated in its 2006 annual report, WRBC had assets of \$15.6 billion and stockholders' equity of \$3.3 billion.

The following organizational chart reflects the identities and interrelationships between the primary subsidiaries of the W. R. Berkley Corporation that are part of the holding company system as of December 31, 2006:

	Percentage owned by <u>Berkley (1)</u>
W. R. Berkley Corporation	
Berkley International, LLC (2)	100%
Berkley Surety Group, Inc.	100%
Carolina Casualty Insurance Company (FL)	100%
Clermont Specialty Managers, Ltd	100%
Greenwich Knight Insurance Company, Ltd.	100%
J/I Holding Corporation	100%
Admiral Insurance Company (DE)	100%
Admiral Indemnity Company (DE)	100%
Berkley London Holdings, Inc. (3)	100%
W.R. Berkley London Finance, Limited	80%
W.R. Berkley London Holdings, Limited	80%
W.R. Berkley Insurance (Europe), Limited	100%
Berkley Risk Administrators Company, LLC	100%
Clermont Insurance Company (IA)	100%
Nautilus Insurance Company (AZ)	100%
Great Divide Insurance Company (AZ)	100%
Key Risk Management Services, Inc.	100%
Monitor Liability Managers, Inc.	100%
Queen's Island Insurance Company, Ltd	100%
Signet Star Holdings, Inc.	100%
Berkley Insurance Company (DE)	100%
Berkley Regional Insurance Company (DE)	100%
Acadia Insurance Company (ME)	100%
Berkley Regional Specialty Insurance Company (DE)	100%
Continental Western Insurance Company (IA)	100%
Firemen's Insurance Company of Washington, D.C. (DE)	100%
Tri-State Insurance Company of Minnesota (MN)	100%
Union Insurance Company (IA)	100%
Union Standard Insurance Company (OK)	100%
<b>Gemini Insurance Company (DE)</b>	<b>100%</b>
Key Risk Insurance Company (NC)	100%
Midwest Employers Casualty Company (DE)	100%
Preferred Employers Insurance Company (CA)	100%
Riverport Insurance Company (CA)	100%
Signet Star Re, LLC	100%
StarNet Insurance Company (DE)	100%
Facultative ReSources, Inc.	100%

1 W.R. Berkley Corporation is the ultimate parent. The subsidiary of a direct parent is indicated by indentation, and its percentage ownership is as indicated in this column.

2 Owned by W.R. Berkley Corporation and its subsidiaries as follows: W.R. Berkley Corporation (2%), Admiral Insurance Company (35%), Berkley Insurance Company

- (35%), Berkley Regional Insurance Company (14%), and Nautilus Insurance Company (14%).
- 3 Owned by Admiral Insurance Company (66.67%) and Berkley Insurance Company (33.33%).

During the period under examination, Holding Company Registration Statements were filed with the Delaware Insurance Department that included intercompany agreements and transactions as required by the provisions of Regulation 1801 of 18 Del.C.

### **TERRITORY AND PLAN OF OPERATION**

#### **Territory**

The Company is authorized to transact the business of insurance in Delaware and is an eligible surplus lines insurer in 48 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

The principal office facilities of the Company are located in Greenwich, Connecticut.

#### **Plan of Operation**

Gemini develops non-admitted programs, targeting the specific insurance needs of the surplus lines market. Its business is mainly produced by program administrators/underwriting managers and for certain programs, managing general agents (MGAs), through contracts with general agents or surplus lines brokers. Coverage is provided to insureds that are not able to secure policies through the admitted insurance market.

Approximately 88% of the Company's direct written premiums for the year 2006 were comprised of General Liability, Products and Completed Operations Liability, and Owners and Contractors Protective Liability that was written through an affiliated company, Vela Insurance Services, Inc., under a management agreement. Most of the other business written by the Company was comprised of commercial automobile and commercial multiple peril insurance.

The Company wrote direct premiums of \$260,895,492 during the year ended December 31, 2006. Berkley Insurance Company, its immediate parent company, assumed 99.72 % of the business and the remainder of the business was assumed by non-affiliates.

Business is written on a national basis, with emphasis in the states of California, Louisiana, Arizona, Washington, Texas and Nevada. Business written during 2006 is shown below:

<u>Jurisdictions</u>	<u>Direct Premiums Written</u>	<u>Percentage by Jurisdiction</u>
California	\$ 144,940,220	55.56 %
Louisiana	20,197,080	7.74
Arizona	17,947,077	6.88
Washington	15,375,754	5.89
Texas	14,821,093	5.68
Nevada	14,564,101	5.58
Other	<u>33,050,168</u>	<u>12.67</u>
Total	<u>\$ 260,895,493</u>	<u>100.00 %</u>

As represented by management, the Company intends to expand its coverage for commercial airlines, cargo operators and helicopters on a co-insurance basis. Aircraft coverage for commercial and cargo operators will include hull and liability insurance; helicopter business will be written for ten to thirty helicopters per fleet. Non-owned aircraft liability coverage for chartered aircraft will be offered for both contingent and excess liability. Independent control tower association business will also be written.

The insurance coverage is managed through Berkley Aviation, LLC, a subsidiary of Berkley Insurance Company.

Large brokerage firms will produce coverage. Individual brokers specializing in aviation business are also expected to submit risks for consideration.

## **GROWTH OF THE COMPANY**

The following information was extracted from the Company's filed Annual Statements and shows the growth of the Company since the last examination as of December 31, 2003.

<u>Year</u>	<u>Net Admitted Assets</u>	<u>Surplus as Regards Policyholders</u>	<u>Gross Premiums Written *</u>	<u>Net Premiums Written</u>	<u>Net Income</u>
2006	\$91,677,607	\$55,144,207	\$260,895,492		\$2,001,728
2005	86,646,655	26,486,954	311,922,354		1,132,926
2004	60,498,340	27,629,979	179,356,673		1,018,091
2003	43,982,063	29,751,617	154,202,060	\$5,252,065	2,467,917

\* Direct premiums written and reinsurance assumed.

The effects of these increases in gross written premiums on net income and policyholder surplus were minimal, due to the 100 % quota share reinsurance agreement with Berkley. The large increases in net admitted assets and surplus as regards policyholders in 2006 were due primarily to a \$24 million capital contribution from Berkley, as commented on under the caption "Capitalization."

## **REINSURANCE**

For 2006, the Company reported the following distribution of premiums written:

Direct business	\$260,895,492
Reinsurance assumed from affiliates	0
Reinsurance assumed from non-affiliates	<u>0</u>
Gross premiums written	<u>\$260,895,492</u>
 Reinsurance ceded to affiliates	 \$260,189,135
Reinsurance ceded to non-affiliates	<u>706,357</u>
Total ceded	<u>\$260,895,492</u>
 Net premiums written	 <u><u>\$ 0</u></u>

Assumed

The Company does not assume any business through reinsurance.

Ceded

Effective January 1, 1998, the Company entered into a 90% quota share agreement with its parent Berkley Insurance Company. Under the agreement the Company ceded 90% of the net liabilities arising under policies, contracts and binders of insurance or reinsurance in-force at the effective date or issued after that date and classified as property casualty insurance business by the Company. Effective October 1, 2003, the agreement was amended retroactively, increasing the reinsurance percentage to 100%. Premiums ceded to non-affiliates were minor in nature and provided catastrophic loss coverage to the Company.

**MANAGEMENT AND SERVICE AGREEMENTS**

**Affiliated Agreements**

The Company participated in the following inter-company management and service agreements that were in effect as of December 31, 2006:

Tax Allocation Agreement

Effective September 30, 1997, Gemini and W. R. Berkley Corporation (WRBC) entered into a tax allocation agreement whereby the Company is a member of an affiliated group of corporations of which WRBC, directly or indirectly, is the common parent that files consolidated federal income tax returns for the participating member companies.

The tax liability is allocated among affiliates in the ratio that each affiliate's separate return tax liability bears to the sum of the separate return tax liabilities of all affiliates that are members of the WRBC Group. Estimated payments are made by the respective affiliates to WRBC and if such member is entitled to a credit, WRBC will account for such amount in the



same way as if a credit or a claim for a refund was made directly by an affiliate with the Internal Revenue Service.

#### Investment Advisory Agreement

Effective July 1, 1997, Gemini entered into an investment advisory agreement whereby Berkley Dean and Company, Inc. (Berkley Dean) provides certain advisory and management services based upon criteria, standards and guidelines of the Company. Gemini has ultimate and final authority over decisions and policies on purchases and sales of securities. Berkley Dean receives .25% of 1% of the first \$10,000,000 and .20% of 1% thereafter, of the net asset value of the portfolio at the end of each quarter which is when fee payments are due. Either party may terminate the agreement at any time with at least 90 days written notice prior to each anniversary of the agreement.

#### Cost Sharing Agreement

Effective July 1, 1997, Gemini entered into a cost sharing agreement whereby Berkley Insurance Company (Berkley) provides certain property, equipment, facilities and personnel in performing certain underwriting, claims, accounting, legal and administrative functions and special services for its subsidiaries in their insurance and business operations.

Fees are charged on a cost basis and include directly allocable expenses, reasonably and equitably determined to be attributable to Gemini by Berkley, plus a reasonable charge for direct overhead to be mutually agreed upon by Gemini and Berkley from time to time, provided however, that such charges are not any greater than the Company would expend if providing such services for itself.

Berkley submits within 30 days of the end of each calendar month a statement of the amount owed and Gemini pays the amount owed to Berkley within 15 days following receipt of such statement. Either party may cancel the agreement upon giving 60 days prior written notice.

### Underwriting Management Agreements

The Company has three underwriting management agreements and compensates its managers for the actual costs of services provided to the Company by the manager. Duration and termination provisions are contained in the agreements that may be cancelled by either party. The agreements are described as follows:

#### (1) Vela Insurance Services, Inc. (Vela)

Effective April 1, 1999, Gemini entered into an agreement with Vela to act as its manager for the solicitation, underwriting, binding and issuing of insurance coverage.

Vela's authorized lines of business and products that can be written in all states that surplus lines authority has been granted to the Company are General Liability, Products and Completed Operations Liability and Owners and Contractors Protective Liability.

Vela's maximum limits of authority to be written are as follows:

\$1,000,000 per occurrence

\$2,000,000 general aggregate

\$2,000,000 products and completed operations aggregate

In addition, Vela has the ability to reinsure on a facultative basis with limits as follows:

\$5,000,000 per occurrence

\$5,000,000 general aggregate

\$5,000,000 products and completed operations aggregate

An itemized statement of account is forwarded by Vela to the Company within fifteen (15) days from the end of the month and Vela remits amounts based on premium collected for the month less commission on collected premium, within forty-five (45) days from the last day of the month from which coverage is effective. Premiums collected by Vela are held in trust on behalf of the Company in a fiduciary capacity in a premium trust fund.

Effective June 17, 2002, Gemini entered into an agreement with Berkley Risk Administrators, LLC (BRAC) to provide claims administration services for property and casualty business managed by its affiliate, Vela Insurance Services, Inc., under its excess and surplus lines insurance program. BRAC services include the investigation, adjustment, settlement and administering of claims.

During the year 2006, Vela produced approximately 88 % of the business written by the Company.

(2) Berkley Underwriting Partners, LLC (BUP)

Effective July 1, 2001, Gemini entered into an agreement with BUP to act as a manager for coordinating and overseeing all activities relating to the production of insurance underwritten by general agencies that specialize in managing program business. BUP provides Managing General Agencies (MGAs) or Program Administrators, services that include; underwriting, claims, accounting, financing, information technology, regulatory compliance and actuarial support. In addition, BUP can manage activities regarding the placement of reinsurance through reinsurers in connection with the MGA or program business, enter into agreements on the Company's behalf with Third Party Administrators (TPAs) for obtaining claims administration services or adjust or settle claims arising out of or in connection with policies pursuant to an MGA or program administration agreement entered into on behalf of Gemini.

Settlement of balances by BUP to the Company is required to be no later than thirty (30) days after the close of each quarter and settlement by the Company to BUP occurs upon receipt of the statement of account, unless the parties agree otherwise.

The Company entered into an agreement with BRAC to provide claims administration services for business underwritten by general agencies that specialize in specific programs

produced by BUP. BRAC services include the investigation, adjustment, settlement and administering of claims.

During the year 2006, BUP produced approximately 12 % of the business written by the Company.

(3) Berkley Aviation, LLC (BA)

Effective April 24, 2006, Gemini entered into an agreement with BA to act as a manager for producing, underwriting and servicing, on the Company's behalf, aviation coverage, including the handling and servicing of all claims and losses, and legal actions resulting or arising from such business.

Aviation coverage includes policies written for airlines, aircraft charter operations, aircraft hull and liability used for personal and business uses, non-owned aviation liability, commercial general liability for operations that are directly involved in aviation and other aviation related operations requiring insurance and certain other risks as may be approved in writing by the Company.

Services performed by BA are subject to the guidelines of the Company and include such functions as the following:

- Acceptance and declination of risks
- Issuance, cancellation and amendment of contracts of insurance
- Collection and payment of premiums and return premiums
- Rejection, adjustment, compromise and payment of loss and loss expenses
- Recovery of losses and expenses from the Company and or its reinsurers, if any
- Payment of all taxes and fees imposed by any government or agency other than premium taxes
- Payment of all dues and all other expenses connected with the business
- Determination of what constitutes a "risk", an "insured", a "claim" and a "loss"

A statement of account is forwarded by BA to the Company on a calendar quarterly basis in such form and detail as mutually agreed, but not later than thirty (30) days after the close of

each quarter. Settlement between the Company and BA occurs within thirty (30) days upon receipt of the statement of account, unless the parties agree otherwise.

During the year 2006, BA produced less than 1 % of the business written by the Company.

### **Non-Affiliated Agreements**

#### **Managing General Agents (MGAs), Third Party Claim Administrators (TPAs) and Underwriting Managers**

The Company has entered into agreements and transactions with MGAs, TPAs and underwriting or program managers. The type of business and amount of premiums written by the MGAs and TPAs over the exam period is listed below. This is followed by a description that identifies the type of examination finding:

<u>Managing General Agent or Third Party Administrator</u>	<u>Type of Business Written</u>	<u>Year and Amount of Direct Premiums Written</u>
1 Pelican General Insurance Agency - MGA	Commercial Automobile	2004 - \$10,263,431 2005 - \$11,351,881 2006 - \$12,113,137
1a Pelican General Insurance Insurance Agency - TPA		
2 Western Marine Insurance Insurance Services, Inc. - MGA	Commercial Multiple Peril	2004 - \$ 3,905,487 2005 - \$10,922,823 2006 - \$10,444,997

Each of the two MGAs produced premiums written greater than five percent (5%) of the Company's policyholder surplus between the years 2004 and 2006 and, either directly or by means of utilizing an affiliated TPA, conducted claim administration services for the Company.

## **ACCOUNTS AND RECORDS**

### **Information Systems Controls Evaluation**

A high-level assessment of the internal control structure and process for Gemini's accounting computer systems was discussed with management and reviewed after completion of questionnaires developed by the NAIC and the Delaware Department of Insurance. The discussions and review did not reveal any material deficiencies in the internal control structure of the Company.

### **Accounting System**

All necessary accounting records of the Company are maintained on electronic data processing equipment. The Company's database was tested as part of Delaware examination procedures.

### **Independent Accountants**

The Company's financial statements are audited each year by the firm of KPMG LLP, ("KPMG") of New York, New York. KPMG issued an unqualified opinion on the audited statutory financial statements for all years under the examination review. The workpapers prepared by KPMG in connection with the annual audit were reviewed and relied upon to the extent possible.

## **FINANCIAL STATEMENTS**

The following pages contain a statement of assets, liabilities, surplus and other funds as of December 31, 2006, as determined by this examination, along with supporting exhibits as detailed below:

Assets

Liabilities, Surplus and Other Funds

Statement of Income

It should be noted that the various schedules and exhibits may not add to the total shown due to rounding.

### **Assets As of December 31, 2006**

	Ledger Assets	Non-Admitted Assets	Net Admitted Assets	Notes
Bonds	\$ 55,558,028		\$ 55,558,028	1
Stocks:				
Preferred	500,000		500,000	
Cash, cash equivalents, and short-term investments	(1,476,154)		(1,476,154)	
Investment income due and accrued	861,307		861,307	
Premiums in course of collections	23,746,798	\$ 1,922,626	21,824,172	2
Premiums booked but deferred and not yet due	11,544,170	1,156,292	10,387,878	2
Amounts recoverable from reinsurance	2,211,597		2,211,597	
Net deferred tax asset	1,250,330	274,401	975,929	
Prepaid expenses	591,459	591,459		
Disbursements not allocated	834,850		834,850	
	<hr/>	<hr/>	<hr/>	
Total Assets	<u><u>\$ 95,622,385</u></u>	<u><u>\$ 3,944,778</u></u>	<u><u>\$ 91,677,607</u></u>	

**Liabilities, Surplus and Other Funds**  
**As of December 31, 2006**

		Notes
Losses		3
Loss adjustment expenses		3
Commissions payable	\$ 215,378	
Other expenses	246,640	
Current federal and foreign income taxes payable	34,488	
Ceded reinsurance premiums payable	34,882,181	
Remittances and items not allocated	28,117	
Provision for reinsurance	50,196	
Payable to parent, subsidiaries and affiliates	1,067,289	
Deposit liability	9,112	
Total Liabilities	<u>\$ 36,533,401</u>	
Common capital stock	\$ 4,300,000	
Gross paid-in and contributed surplus	42,000,000	
Unassigned funds (surplus)	8,844,207	
Surplus as regards policyholders	<u>\$ 55,144,207</u>	
Total	<u><u>\$ 91,677,608</u></u>	



**Statement of Income  
As of December 31, 2006**

**DEDUCTIONS**

Loss expenses incurred	
Other underwriting expenses incurred	\$ (770,724)
Miscellaneous other (income) / loss	
Total underwriting deductions	<u>(\$770,724)</u>
Net underwriting gain or (loss)	<u>\$770,724</u>

**INVESTMENT INCOME**

Net investment income earned	\$ 2,331,675
Net realized capital gains or (losses)	<u>38,163</u>
Net investment gain or (loss)	<u>\$ 2,369,838</u>

**OTHER INCOME**

Net loss from agents' or premium balances charged off	<u>\$ (711,006)</u>
Total other income	<u>\$ (711,006)</u>
Net income before dividends to policyholders and before federal income taxes	\$ 2,429,556
Dividends to policyholders	
Net income after dividends to policyholder but before federal income taxes	<u>\$ 2,429,556</u>
Federal and foreign income taxes incurred	<u>427,828</u>
Net income	<u><u>\$ 2,001,728</u></u>

**CAPITAL AND SURPLUS ACCOUNT**

Surplus as regards policyholders, December 31, 2005	<u>\$ 26,486,954</u>
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**GAINS AND (LOSSES) IN SURPLUS**

Net income	\$ 2,001,728
Change in net unrealized capital gains or (losses)	19,464
Change in net deferred income tax	(870,687)
Change in non-admitted assets	3,521,204
Change in provision for reinsurance	(14,456)
Surplus adjustments:	
Paid in	<u>24,000,000</u>
Change in surplus as regards policyholders for the year	<u>\$ 28,657,253</u>
Surplus as regards policyholder, December 31, 2006	<u><u>\$ 55,144,207</u></u>

### **EXAMINATION FINANCIAL CHANGES**

No financial adjustments were made as a result of this examination.

### **NOTES TO FINANCIAL STATEMENTS**

#### **Note 1 - Bonds**

**\$55,558,028**

Bonds, comprising 60.6% of total admitted assets, were determined to be the same amount as reported by the Company in its Annual Statement. In addition, 100.0% of the bonds were rated Class 2 or higher by the NAIC Securities Valuations Office.

#### **Note 2- Uncollected premiums and agents balances in course of collection**

**\$21,824,172**

#### **Deferred premiums, agents' balances and installments**

#### **Booked but deferred and not yet due**

**\$10,387,878**

Premiums and considerations of \$32,212,050, comprising 35.2% of total admitted assets, were determined to be the same amount as reported by the Company in its Annual Statement.

#### **Note 3 – Losses and loss adjustment expenses**

**\$ -0-**

The Company cedes 100 percent of its loss and loss adjustment expense reserves to its parent, Berkley Insurance Company.

### **COMPLIANCE WITH PRIOR REPORT RECOMMENDATIONS**

The Company has fully complied with all prior exam report recommendations.

### **SUMMARY OF RECOMMENDATIONS**

It is recommended that the Company consistently comply with its Policy Statement on Conflict of Interest procedures by verifying that its officers and directors review and execute the questionnaires on an annual basis. (See Management and Control: Conflict of Interest Policy, page 6)

It is recommended that the Company's Board of Directors approve all intercompany agreements and other agreements as required. (See Management and Control: Lack of Board of Directors Approvals of Transactions, page 7)

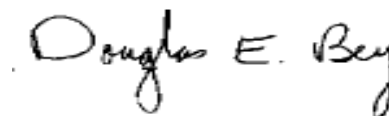
### **CONCLUSION**

The following schedule shows the results of this and the prior examination, with changes during the three-year period:

<b><u>Description</u></b>	<b><u>December 31 2003,</u></b>	<b><u>December 31, 2006</u></b>	<b><u>Difference</u></b>
Assets	\$43,982,063	\$91,677,607	\$47,695,544
Liabilities	14,230,446	36,533,401	22,302,955
Capital and Surplus	29,751,617	55,144,207	25,392,590

The assistance of Delaware's consulting firms, INS Consultants, Inc., and INS Services, Inc., is acknowledged.

Respectfully submitted,



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Douglas E. Bey, CFE  
Examiner-In-Charge  
State of Delaware  
Northeastern Zone, NAIC